

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA et al.,

Plaintiffs,

v.

AMERICAN AIRLINES GROUP INC. and
JETBLUE AIRWAYS CORPORATION,

Defendants.

Case No. 1:21-cv-11558-LTS

**JOINT STATUS REPORT REGARDING THE ADMISSIBILITY AND
CONFIDENTIALITY OF EXHIBITS AND DEPOSITION DESIGNATIONS**

Pursuant to Paragraph 1 of the Court’s Scheduling and Case Management Order (“CMO”) entered November 30, 2021 (Dkt. No. 76), Plaintiffs and Defendants submit this Joint Status Report regarding the Parties’ remaining disputes as to the admissibility and confidentiality of the Parties’ respective exhibits and deposition designations:

I. Objections to Exhibits on the Parties’ Trial Exhibit Lists

1. Pursuant to the schedule set forth in the CMO, the Parties exchanged their initial exhibit lists on July 27, 2022. The Parties subsequently exchanged objections to each other’s exhibit lists on August 10.

2. Consistent with the CMO and the Court’s guidance during the August 17 status conference, the Parties have met and conferred multiple times and successfully narrowed the exhibits as to which a dispute exists. Attached as **Appendix A** to this Joint Status Report is Plaintiffs’ Trial Exhibit List, with Defendants’ current objections notated with the corresponding Federal Rule of Evidence. Attached as **Appendix B** to this Status Report is Defendants’ Trial

Exhibit List, with Plaintiffs' current objections notated with the corresponding Federal Rule of Evidence.¹

3. The Parties agree that there may be certain categories of exhibits for which objections remain that are capable of resolution prior to trial, without the need for witness testimony. The Parties shall continue to meet and confer to identify categories of exhibits which may be capable of resolution prior to trial in an effort to streamline the presentation of evidence at trial and eliminate uncertainty as to key aspects of their respective trial presentations. For any such categories of exhibits identified in the meet and confer process, the Parties will submit to the Court their respective position statements on these categories as an appendix to the Proposed Final Pretrial Order to be filed with the Court on September 9, and would request the Court's resolution of those issues prior to trial. For those objections that do not fall within the categories described above, the Parties intend to reserve their rights to resolution of these objections, as necessary, during trial. The Parties will continue to meet and confer in an effort to further narrow any such disputes in advance of trial.

4. The Parties will be prepared to present oral argument regarding the categories of objections identified through the process set forth in Paragraph 3, if any, either at the Final Pretrial Conference, or at such other time as the Court requests.

II. Objections to Deposition Designations

5. Pursuant to the schedule set forth in the CMO, the Parties exchanged their opening deposition designations (except for witnesses on either Party's final witness list) on July 27, 2022. The Parties subsequently exchanged objections to each other's opening deposition designations

¹ As provided in the CMO, the Parties are exchanging supplemental exhibit lists today, August 25. The Parties will meet and confer regarding these additions and any objections thereto and include these additional exhibits and objections, if any, with the Proposed Final Pretrial Order.

and counter-deposition designations on August 10. Finally, the Parties exchanged objections to each other's counter-deposition designations and counter-counter-deposition designations on August 17.

6. Consistent with the CMO and the Court's guidance during the August 17, 2022 status conference, the Parties have met and conferred multiple times, including by phone on August 22 and via email on August 24, to attempt to resolve objections to each other's deposition designations.

7. The Parties will continue to meet and confer in an attempt to further resolve objections to each other's deposition designations, and intend to submit final Plaintiffs' and Defendants' deposition designations, along with any objections thereto, as well as any counter-designations and objections thereto, as appendices to the Proposed Final Pretrial Order to be filed with the Court on September 9. The Proposed Final Pretrial Order will detail the procedure for entering deposition designations into the trial record.

8. The Parties agree to defer exchanging deposition designations, objections, and counter-deposition designations for witnesses that appear on either Party's final witness list. The Parties are discussing a procedure to submit deposition designations for any witness(es) on either Party's final witness list that are not called to testify live at trial, which will be addressed in the upcoming Proposed Final Pretrial Order.

III. Objections to Confidentiality Designations

9. Pursuant to the CMO, the Parties have exchanged proposed confidentiality designations and objections for documents appearing on the Parties' trial exhibit lists.²

² As contemplated by the CMO, the Parties also have discussed confidentiality designations for deposition testimony, particularly deposition testimony that may need to be read aloud at trial during an examination of a witness. The Parties will meet and confer regarding these additional confidentiality designations.

10. Consistent with the CMO and the Court's guidance during the August 17, 2022 status conference, the Parties have met and conferred regarding the confidentiality of Party documents on the Parties' trial exhibit lists, including on August 23. The Parties are continuing to discuss the scope of the trial exhibits and deposition testimony that they will move to seal or redact for trial and believe that they can narrow the scope of any such requests with further discussion.

11. The Parties propose to exchange revised confidentiality designations for trial exhibits no later than September 6. The Parties propose to file any requests to seal Party trial exhibits on the basis of confidentiality no later than September 9, 2022. Such request(s) shall separately identify confidentiality claims to which the opposing Party does not object and those to which the opposing Party does object, and the basis for any such objection.

12. The Parties also have received confidentiality designations from non-Parties whose documents appear on the Parties' trial exhibit lists and have met and conferred with them as needed. The Parties will propose a schedule for non-Party requests to seal in the upcoming Proposed Final Pretrial Order.

Dated: August 25, 2022

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